



11W AP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

Applicant: Yasuyuki Ohara et al.
Serial No.: 10/532,749 Confirmation No: 9204
Filed: 04/26/2005
For: CUSHIONING MEMBER AND METHOD OF MANUFACTURING
THE SAME
Examiner: Bradley T. King Art Unit: 3683
Atty. Docket: TSCULB-001US

RESPONSE TO OFFICE ACTION DATED MAY 1, 2008

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

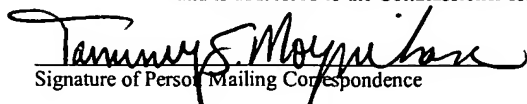
Dear Sir:

Claims 1-3 and 15-17 were rejected as anticipated by U.S. Patent No. 6,823,924 (Martin). While Martin is for a shutter support utilizing brushes, there any similarity to the claimed invention ends.

A totally different type of supporting mechanism for shutters, screens and panes is described and claimed wherein the pile bridges between base members. This enables some of the pile, particularly pile yarns that are located towards one side from the center of the pile (Claim 3), to be cut while the other piles are not cut to form first and second cut pile yarns facing each other with the cut in between. The presence of the cut piles enables the cushioning member to be tailored to perform satisfactorily both resistance reducing functions to provide only the necessary resistance to the sliding of the shutter or other pane, as well as the cushioning functions which controls forward, rearward, and lateral movement of the shutters when in operation under windy conditions.

Certificate of Mailing by First Class Mail

I certify that this document is being deposited on August 1, 2008 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Signature of Person Mailing Correspondence

Tammy S. Moynihan

Typed or Printed Name of Person Mailing Correspondence

The novel structure, which is responsible for this advantage is recited in the claims and the Examiner's attention is directed to pages 13 and 14 of PCT Application No. PCT/US03/034393 as Published under International Publication No. WO 2004/042248 which, among other parts of the specification, spells out this advantage.

All that the Martin patent shows is the use of brushes on the sliding screen and the adjacent jamb (brushes 4 and 5) which respectively engage the screen frame and the jamb (see Martin column 4, lines 44-62). Since the brushes 4 and 5 are not part of a cushioning member as claimed, let alone part of a structure where a plurality of yarns bridge between base members, it is clear that Martin is for a different type of device than the cushioning member of the rejected claims.

The Examiner says that the language does not preclude all the piles being cut. With all due respect, this conclusion is not supported by anything in the claim and is certainly contrary to any interpretation of the claim in accordance with the specification. Firstly, Claim 1 calls for "some of the pile yarn... cut at an intermediate portion between the base members". Clearly this recitation excludes all of the yarn being cut. The Examiner will appreciate that a claim should not be interpreted in a manner in which it flies in the face of the meaning of the claim language which is set forth in the specification. See, Ex parte Research and Manufacturing Co., Inc., 10 USPQ2d, 1657 (PTBAI 1989). It is improper to construe a claim in a manner which is not consistent with the specification. That is, a claim must be construed in light of the specification as the specification would be interpreted by one skilled in the art. See, In re Bond, 15 USPQ2d, 1566 (Fed. Cir. 1990). Thus any interpretation of the claim which ignores there being a plurality of piles between base members of the cushioning member with an intermediate portion of some of the piles cut as reading on all of the piles in separate brushes, as shown in Martin, being cut, clearly contradicts Applicants' specification. If all of the piles were cut, none of the advantages referred to above of Applicants' cushioning member would be achievable and the cut pile section would flop around between the frame and the shutter. One skilled in the art would not interpret the claim to read to such a result which is contrary to the letter and spirit of the claim and the invention as set forth in the specification.

Moreover, the claim calls for the non-cut pile yarns being adjacent to cut pile yarns. Accordingly, this language excludes all of the yarns being cut.

There is no teaching in Martin of the characteristics of the cut and non-cut pile yarns of the cushioning member. Certainly, there is no teaching of the cut being in the yarns located from the center of the pile in the direction of the width of the base members. In Claim 15, the base member is described as being attached to the guiding and moving member where another base member is in contact with the moving member. In Martin there is far more than contact, but rather there is an actual adhesion to both the screen frame and the jamb. In Claim 16, the un-cut pile is in contact with the moving member (see FIGs. 8 and 10). With all due respect, there is no such showing, either directly or by implication, which can be derived from Martin. Similarly, Claim 17 further distinguishes, since it calls for the edge of the moving member being in contact in relationship with the non-cut pile yarns.

With all due respect, the Examiner's comments with regard to Claim 15 at the top of page 3 of the Action have no basis in Martin since Martin's 4 and 5 do not constitute a cushioning member, and are attached to the jamb and the screen frame so as not to be "movable along the guiding member".

For the foregoing reasons, the withdrawal of all rejections on Martin is respectfully urged, including the 35 U.S.C. 102(e) rejection and the 35 U.S.C. 103(a) rejection combining Martin and U.S. Patent No. 4,849,270 (Evans et al.) which fails to describe that absent in Martin.

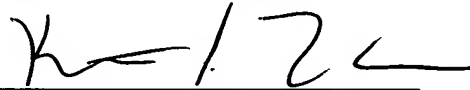
Claims 1-7 and 16-17 were rejected as unpatentable over Japanese Patent Publication No. 11-247552 (Ohara) in view of Evans et al. It is respectfully submitted that Ohara merely shows a pair of brushes, each of which bears upon and supports the shutter. There is no cushioning member provided by a pile yarn between two base members and certainly not a pile yarn with cut and non-cut pile yarns. Accordingly, even if Evans et al. were added to Ohara, what is claimed in the rejected claims would not be achieved. The distinctions argued above with respect to Martin are equally applicable to Ohara. As regards to Claims 4-7, the Examiner cites paragraphs 0028 and 0022 of Ohara on page 4 of the May 1, 2008 Office Action. Translations of these paragraphs are enclosed. What these portions show is that the individual brushes 31 of Ohara are used exclusively for supporting the shutter 26 thereby ruling out the use of cut and non-cut pile yarns between base members for providing a cushioning member. Considering Evans et al., this reference relates merely to a pile weatherstrip made by a tufting process with two wheels 34 and 36 (FIGS. 2 and 11 of Evans et al.) for laying down different tufts (see

column 4 of Evans et al., lines 4-11 and 46+). If such tufts were used instead of pile yarns in the brushes of Ohara, there still would be no showing or suggestion of cut and non-cut pile sections between base members to provide a cushioning member as claimed. Whether the tufts are looped or cut provides no teaching of non-cut pile yarns between base members and adjacent to cut pile yarns as claimed. As discussed in Evans et al. column 8, lines 29-36, both the cut and loop piles operate in the same way to provide a sealing surface against a door or window. The Edwards looped pile loops back to the same back. Therefore, it can not budge between base members as claimed. Thus, if part of the Ohara brushes were loop piles instead of cut piles, both the cut and non-cut piles would not extend between base members, but each would provide its own sealing surface by brushing against the shutter frame. Thus, merely replacing a loop pile with a cut pile would not suggest the invention as claimed nor would it provide the advantages of the invention as discussed above in connection with the argument concerning the Martin patent.

For the foregoing reasons it is respectfully requested that the rejections be withdrawn and this application be passed to issue. Also, upon allowance of a generic claim, such as Claim 1, the species claims which were withdrawn from consideration, that is Claims 8-14 and 18-21 should be considered in this application and for the same reasons as set forth above, should be allowed.

Favorable action upon further consideration is respectfully solicited.

Respectfully submitted,



Kenneth J. LuKacher
Attorney for Applicant
Registration No. 38,539

Dated: August 1, 2008

South Winton Court
3136 Winton Road South, Suite 301
Rochester, New York 14623
Telephone: (585) 424-2670
Facsimile: (585) 424-6196

Enclosures: Translation of paragraphs 0022 and 0028 of the Ohara Japanese Reference; and
Second Supplemental Information Disclosure Statement with
1 PTO-1449 Form.